

## MINUTES – FEBRUARY 18, 2013

The Caswell County Board of Commissioners met in regular session at the Caswell County Historic Courthouse in Yanceyville, North Carolina at 6:30 p.m. on Monday, February 18, 2013. Members present: Cathy W. Lucas, Chair, Kenneth D. Travis, Vice-Chairman, William E. Carter, Nathaniel Hall, Larry G. Hamlett, Jeremiah Jefferies and N. Kent Williamson. Also present: Kevin B. Howard, County Manager, Brian Ferrell, County Attorney, and Angela Evans representing The Caswell Messenger. Paula P. Seamster, Clerk to the Board, recorded the minutes.

### MOMENT OF SILENT PRAYER

Chair Lucas opened the meeting with a Moment of Silent Prayer.

### PLEDGE OF ALLEGIANCE

The Board of Commissioners and all the guests in the audience recited the Pledge of Allegiance.

### APPROVAL OF AGENDA

Commissioner Travis moved, seconded by Commissioner Jefferies to approve the agenda. The motion carried unanimously.

### APPROVAL OF CONSENT AGENDA

Commissioner Travis moved, seconded by Commissioner Hall to approve the Consent Agenda.

Chair Lucas asked “I have a question on the transfer of the funds for the Detention Center, that is the money that we fronted for the project and it is being reimbursed back to the General Fund?” Mr. Howard responded “Yes ma’am.

Upon a vote of the motion, the motion carried unanimously.

The following items were included on the Consent Agenda:

- A. Approval of Minutes of February 4, 2013 Regular Meeting
- B. Budget Amendment #5

Chair Lucas stated “Before we get started on the Public Comments I would like to take time to recognize the members of the Youth Action Team that are here tonight. We have Morgan White and Christopher Dalton. Would you stand up please? Thank you for being here and welcome and thank you for being here tonight.”

## PUBLIC COMMENTS

Mr. John Claggett made the following statement:

“Good evening, my name is John Claggett and I reside at 108 Jaye Lane, Providence, NC. I again thank the Caswell County Board of Commissioners for providing an opportunity for the public to have a voice.

My comments this evening are concerning the new Detention Center, but before my comments allow me to give the Board a brief timeline of events.

October 19, 2009 – The Board of Commissioners voted 3 to 2 to hire an architectural firm.

January 20, 2010 – The Board of Commissioners voted unanimously to “consider” building a jail.

February 15, 2010 – The Board of Commissioners voted 5 to 2 to build the Detention Center on its current site.

March 8, 2010 – Mr. Brennan of Brennan & Associates gave a presentation to the Board of Commissioners.

August 2, 2010 – The Board of Commissioners voted unanimously to enter into contract negotiations with Brennan & Associates.

September 7, 2010 – The Board of Commissioners voted 6 to 1 to enter into contract with Brennan & Associates

December 20, 2010 – Brennan & Associates stated to the Board of Commissioners during a presentation on the merits of them providing Construction Management services for the new Detention Center that “We work in the best interest of the county”. “We are truly colleagues with you”. During this presentation Commissioner Satterfield asked if the management services will put someone full time on the site every day. The response was “yes, every day when there is a contractor here, we are here”. Mr. Brennan himself stated “There will be someone there every day to make sure that the contractors know exactly what they are supposed to be doing”.

That didn’t happen.

In recent months Mr. Brennan has been on the meeting Agenda to discuss Detention Center Updates and/or Change Orders.

That hasn’t happened.

February 10, 2011 – The Board of Commissioners voted 3 to 2 to enter into contract with Brennan & Associates for construction management services.

Since then Mr. Doyme would periodically appear before you and give various construction updates regarding oversights such as the soil testing that didn’t divulge poor soil, the ongoing saga of the Muffin Monster, let’s not overlook the forgetting to get permission from another municipality to tap into their infrastructure, or the variance request from the Town of Yanceyville that came late in the game associated with the parking around the Detention Center. I’ll just mention one last item associated with construction management and that is the bridge to

nowhere, I mean the connector, the connector that was supposed to connect the new Detention Center with the Courthouse but ended up being misaligned. That's right an architectural firm that promise's the outstanding construction of their designs only to have them built out of alignment with the building it is supposed to connect to. Their solution was to put a "dog leg" in it...and this type of management is acceptable by the County? Personally I wouldn't let them manage the construction of one of my storage sheds.

So much for Mr. Brennan's statement to this Board back on December 20, 2010, "There will be someone there every day to make sure that the contractors know exactly what they are supposed to be doing."

Really.....and all of this great management has cost us over \$175,000.

That shouldn't have happened.

Where's the construction management today? Shouldn't they be there to make sure the contractor knows exactly what to do? Isn't the new Detention Center still under construction? Since the end of last year Mr. Doyne is no longer keeping the Board up to date on the latest oops, he isn't around anymore, why, because the money ran out. I understand that Ms. Geraghty, who made the initial pitch for the Brennan & Associates Construction Management, is no longer with the company. Mr. Brennan, you know the guy with his name on the door, has been on numerous agendas to discuss Detention Center Updates and/or Change Orders but that never comes to fruition...must be his management style, because it's definitely not being in the best interest of the County nor truly being colleagues with us.

I understand that the County has employed a number of Detention Officers since last September in anticipation of the January opening which obviously has been delayed.

I would like to know how many people have been hired and how much this has cost the taxpayer to date including training and daily operations. Please don't refer me to the Sheriff's Department as I believe the County Manager, Human Resources, or the Finance Office could provide that information.

I just have one more item for the Board this evening. It's in regard to a tragedy that supposedly occurred in our current Detention Center concerning the death of a young lady named Crystal Lea Truitt last May. You're all hopefully in receipt of my email regarding the reporting of this by an out of town newspaper.

I would like for the Caswell County Board of Commissioners to tell me if this in fact happened and if there was an external investigation done. Thank you."

Mr. Claggett asked "No answers?" Commissioner Hamlett responded "I was not on the Board then so I don't know."

Chair Lucas asked "Attorney Ferrell would you address this?" Mr. Ferrell responded "The first thing that I will say is your Public Comment period is designed for just that which is for public

comments and I don't believe that it is generally a back and forth opportunity." Chair Lucas continued "It is optional, I think. Our normal procedure has been not to entertain questions. Mr. Claggett we will try to get some answers for you. Thank you for your time tonight."

Chair Lucas asked if there was anyone else who would like to speak during Public Comments. With no further comments Chair Lucas declared Public Comments as closed.

#### APPROVAL OF 504 PLAN FOR 2011 SCATTERED SITE CDBG GRANT

Ms. Alicia Broadway stated "Good evening Chair and Commissioners. I am truly honored to be here again. This time I am here to seek approval of a new Section 504 Plan on behalf of the current and future CDGB grants for Caswell County. As a requirement of receiving Community Development Block Grant funds the County must have an active Section 504 Plan. We learned that this one was outdated so I am basically here to get approval of the new one. Section 504 of the Rehabilitation Act of 1973 is a national law that protects qualified individuals from discrimination based on their disability. Section 504 forbids organizations and employers from excluding or denying individuals with disabilities an equal opportunity to receive program benefits and services. It also defines the rights of individuals with disabilities to participate in, and have access to, program benefits and services. The non-discrimination requirements of the law apply to employers and organizations that receive financial assistance from any federal department or agency. The CDBG requires Section 504 Self Evaluation Survey documents for the hiring policies and practices of the County. I think that you may have received a copy that was prepared by Mindy Satterfield which is your HR. She had to go through this entire document that the State provided and fill that out on behalf of the County. That along with your Section 504 Grievance Procedure outlines the steps that will be taken in order to file a claim and it identifies the Section 504 Grievance Officer to receive complaints on behalf of the County. I just wanted to mention that as part of our Fair Housing part for last quarter we did add the Section 504 Grievance Officer title to Kevin Howard on the information page on the website. That is available for those that would like to file a complaint. If the County approves this Section 504 Plan tonight it will be effective until February of 2015. I respectfully ask for consideration to approve the updated Section 504 Plan to ensure that Caswell County will remain in compliance on behalf of its current and future CDBG grant funds that have been and will be awarded to the County by the North Carolina Department of Commerce Division of Community Assistance. Any questions?"

Chair Lucas asked "Alicia this is just an update to what we currently already have, is that correct?" Ms. Broadway responded "Right. The last one has expired. They are only effective for about two years."

Chair Lucas asked "Do you have anything to add Kevin?" Mr. Howard responded "No ma'am." Chair Lucas asked "Are there any questions from the other commissioners or comments for Ms. Broadway?"

Commissioner Hamlett moved, seconded by Commissioner Jefferies to approve the new Section 504 Plan on behalf of the Current and Future CDBG grants. The motion carried unanimously.

REQUEST FROM SHERIFF FOR PRESENTATION OF FIREARM TO CAPT. JERALD BROWN AND SGT. BOBBY BADGETT UPON THEIR RETIREMENT

Lt. Michael Adkins stated “Madam Chair, on behalf of the Sheriff’s Office I would like to present Captain Jerald Brown and Sergeant Bobby Badgett their service weapons. On February 27<sup>th</sup> we have arranged for a brunch for their retirement. We would like to extend our gratitude for their service to the County. Both of them have had over 20 years of service. I was talking with Sergeant Badgett this afternoon and he has been in uniform since 1964 as a reserve and as a full time deputy. Captain Jerald Brown, I reviewed his service as well and this is his 23<sup>rd</sup> year as a member of the Sheriff’s Office. The Sheriff is requesting that they be able to purchase their service weapons for \$1 each. Both deputies have dedicated a considerable amount of time and service to the citizens of the County and will truly be missed by the Sheriff’s Office.”

Commissioner Travis moved, seconded by Commissioner Williamson to allow Captain Jerald Brown and Sergeant Bobby Badgett to purchase their service weapons for \$1 for serving more than 20 years with the Sheriff’s Office of Caswell County. The motion carried unanimously.

Chair Lucas asked “The reception is when?” Lt. Adkins responded “February 27<sup>th</sup>.”

Commissioner Carter asked “What time?” Lt. Adkins responded “10:00 at the Sheriff’s Office.”

Commissioner Hamlet asked “Are we invited?” Lt. Adkins responded “Yes.”

DISCUSSION FOR UPDATING THE CASWELL COUNTY COMPREHENSIVE PLAN THROUGH THE NC COMMUNITY TRANSFORMATION GRANT

Mr. Brian Collie, County Planner, stated “Good evening Commissioners. As you all know we are currently working on a Unified Development Ordinance. We contracted this out to a company and we are paying them \$35,000 in hopes that we will straighten out our local or current land regulations. We are hoping it will make it easier for staff and citizens to use. This was brought to me recently from employees with the NC Community Transformation Grant Project. They have funds available in this budget year that could help us, Caswell County, to re-write a Comprehensive/Land Use Plan. Comprehensive planning is a term used to describe a process that determines community goals and aspirations in terms of community development. This would dictate public policy in terms of transportation, utilities, land use, recreation, health and wellness, and housing. Comprehensive plans typically encompass large geographical areas, a broad range of topics, and cover a long-term time horizon. We currently have a land use plan and I believe it was adopted and it is in your agenda. It is a 12 page document. A land use plan is only one aspect of a comprehensive plan. A comprehensive plan would identify the issues of Caswell County, state the goals, collect the data, prepare the plan, evaluate alternatives, adopt and implement a long term plan. We have come out of pocket to implement the UDO project so if we can receive grant funding from the Centers for Disease Control and Prevention Community Transformation Grants Program from a Comprehensive Plan update I believe it would do the County a great justice. The NC Community Transformation Grant Project is funded by the CDC’s Community Transformation Grants Program. It supports public health efforts to reduce preventable chronic diseases by decreasing tobacco use, increasing physical activity, improving

nutrition and increasing access to evidence-based clinical preventive services. The aim of the project is to create equal access to healthy living opportunities for all North Carolinians including racial and ethnic minorities, those of low socioeconomic status and individuals living in rural NC. I have been told by the employees of this project that Caswell County would be able to get up to \$25,000 to go towards the implementation of this project as long as we incorporate and support the public health efforts described above within the plan. Several other communities in North Carolina have already taken advantage of this project for the same purpose and have seen good results. If Caswell County would like to consider this project we must let them know before March 15<sup>th</sup>. I will answer any questions that you may have.”

Chair Lucas asked “Brian, the difference between what you are talking about doing and the plan we already have adopted would it be specific because I read through the plan that we already have and it is pretty specific as far as what the objectives are and what the strategies are? I just don’t think we have ever followed through with it.” Mr. Collie responded “That is true. It is worded good, but it does not go into any type of transportation or utilities, recreation, population. It is a broader definition. Since the County has spent the money to work on a UDO I think that having this comprehensive plan will enforce this UDO. If we could get this project funded I think it would be a good idea.” Chair Lucas continued “So would it be eliminating the plan that we have currently adopted?” Mr. Collie responded “Yes.” Chair Lucas asked “Totally?” Mr. Collie responded “No we would use some of the information from the old plan and increase upon that to hopefully make it a better sound document. We would not totally wipe the current land use plan away we would expound on that and add to it.” Chair Lucas continued “And we have to have the comprehensive plan in place to move forward with the UDO?” Mr. Collie responded “No you can move forward with the UDO with the current land use plan. I just think that if we can get the funds to do a comprehensive plan that would be better we could tell the citizens what the future goals of the county are.” Chair Lucas asked “What type of time frame would it take to put together another land use plan, comprehensive plan?” Mr. Collie responded “Once the project gets funded and adopted I would assume six months. That is my best guess. I am not sure but I could talk to a consultant on the time frame.” Chair Lucas continued “And who would the consultant be?” Mr. Collie responded “I have contacted Holland Consultants and he will try to work on this along with the UDO. They would love to do that but that is not set in stone. That is totally up to this Board.”

Commissioner Williamson asked “What stipulations would we be under if we accept a grant in order to do this?” Mr. Collie responded “The stipulations that I am aware of are in order to get this money we have to encompass those public health efforts that I mentioned earlier such as preventing chronic disease by decreasing the use of tobacco use, increasing physical activity such as the trail programs and improving the nutrition. We need to state ways that the County can implement those services.”

Chair Lucas asked “Part of that is already in our Land Use Plan, the trails and other things, all of that is addressed currently?” Mr. Collie responded “Yes.”

Commissioner Hamlett asked “If they are going to give us \$25,000 who is going to head this up? Is it going to be you?” Mr. Collie responded “Yes it will be my department.”

Chair Lucas asked “Would it be available after March 15<sup>th</sup>? Is that a deadline that they have to have? The reason that I am asking is we are going to have a retreat and this would be something good to talk about, I think, during our retreat.” Mr. Collie responded “What I understand is that we need to let them know a firm yes by March 15<sup>th</sup> in order to get this money. In the beginning they were not aware that we would be able to get this amount. At first it was about \$6,000 and then they found out that they could allocate \$25,000 to us. If we don’t let them know by March 15<sup>th</sup> the money will not be there. We need to let them know something by March 15<sup>th</sup>.”

Chair Lucas asked “Kevin what dates do we have down tentative for the retreat?” Mr. Howard responded “The dates I was going to talk about was February 28<sup>th</sup> or March 7<sup>th</sup> whichever one the Board felt was good.” Chair Lucas continued “So if we have our Board Retreat on the 28<sup>th</sup> we feasibly could let you know something before the 15<sup>th</sup> at the first meeting in March.”

Commissioner Jefferies asked “Brian is there any way that you can get a copy from another county that you said has this comprehensive plan already in place so we can take a look at it.” Mr. Collie responded “Yes I can get you some examples for you to look at. I had provided a table of contents that lays out some of the things that we could get into in your agenda package.” Chair Lucas stated “More specifically you said there has been success with this grant funding on this project if you could get one of those.” Mr. Collie responded “Okay.”

Commissioner Jefferies moved, seconded by Commissioner Williamson to table this issue until the next meeting which will be held on Monday, March 4, 2013. The motion carried unanimously.

#### RECLASSIFICATION OF THE DAN RIVER WATERSHED AREA

Mr. Brian Collie, County Planner, stated “As you all recall at the end of last month or the beginning of this month we adopted the Haw River WS-IV Watershed reclassification. This is the same exact requirements as the ones for Haw River for the Dan River area. You all have in your agenda a map showing what this area encompasses. It is a fairly large area. It encompasses about 23,000 acres. This has already been adopted at the State level to reclassify a segment of the Dan River in Caswell County from a Class C to Class WS-IV watershed. The statute requires local governments, Caswell County, to adopt and implement the appropriate watershed protection ordinance and maps by March 30, 2013. On October 23, 2012 the Caswell County Planning Board passed a motion with a unanimous vote opposing the reclassification of the Dan River Watershed area. The following changes have to be made before March 30, 2013:

1. Adopt and implement the appropriate watershed protection ordinance revisions.
2. Submit a copy of the County’s approved watershed ordinance for DWQ approval
3. Submit an updated 1:24,000 U.S.G.S. topographic map indicating the local government boundary and the location of the reclassified waters, including critical area and protected area boundaries within your jurisdiction.

Since your agenda packet was issued to you I have made some revisions to the ordinance that would have these changes.” Chair Lucas asked “Excuse me Brian is that what is here in front of us?” Mr. Collie responded “Yes ma’am. I received feedback from the State level on some

changes that needed to be made.” Chair Lucas continued “And you have highlighted the changes?” Mr. Collie responded “Yes ma’am and some of the changes are struck through.”

Commissioner Carter stated “I would just like to make one comment; the change from a WS-II to a WS-IV protects the streams. Even though Caswell County does not pull off the Dan River but we do have upstream and downstream municipalities that do pull off of it and also discharge but reading the materials the WS-IV will help protect the watershed.”

Commissioner Hall asked “I was just wondering about these changes that you made after we received the agenda, has counsel see those?” Mr. Collie responded “No.” Mr. Ferrell responded “I have not seen the State input, the changes made by the State.” Mr. Collie continued “When we adopted the regulations for Haw River to change to a WS-IV I had put in there that a single family dwelling was allowed at the maximum of one dwelling per acre because that is what our Subdivision Ordinance says one dwelling per acre. The model requires two dwelling units per acre so they wanted us to change this to two dwelling units per acre. Our subdivision ordinance would override this. Changes like this are straight off the model from the State. It is less stringent than the Haw River reclassification.”

Mr. Ferrell stated “That is an important distinction. If the County were to adopt something more stringent than the model rules designed by the State there is a different approval process that kicks in. What I understand is the changes that you propose are all consistent with the model ordinance. If your regulations were more stringent you would have to follow a zoning process that requires public hearings.” Chair Lucas responded “Brian that is what we have been told from the beginning, I think if it was more stringent we would have to go through a public hearing process. I don’t know how the rest of the Board feels about it, given the time frame, we have until the 30<sup>th</sup> to actually approve the ordinance, I would like to suggest that we have a public hearing the first meeting in March especially since we have had some changes and you have not had an opportunity to review it. That would be my recommendation.”

Commissioner Hall stated “If counsel is saying that we need to comply with the model ordinance then I don’t have a problem with him not having seen that. The rest of the thing, this Board approved this over a year ago so I don’t see what purpose a public hearing would do at this point.” Chair Lucas asked “What did we approve a year ago?” Commissioner Hall responded “We approved the agreement with the Town of Yanceyville and the Town of Roxboro about the water situation and Person County.” Chair Lucas continued “That is a separate issue.” Commissioner Hall responded “I know it is separate but we are required to do it.” Chair Lucas stated “We have until the 30<sup>th</sup> to do it.” Commissioner Hall responded “I understand but we have dragged it out for a year. At this point it is not negotiable unless we want to go to court and I don’t see any point of us going to court and I don’t really see any point in us dragging it out any further.” Chair Lucas stated “I disagree completely.”

Commissioner Jefferies stated “I think we approved this when George Ward was on the Board at the Civic Center. We all agreed that we would go along with this. There should be some minutes somewhere.” Chair Lucas responded “It has been approved but we are addressing the reclassification at this point. You approved it and then we passed a resolution not too long ago that we were opposed to the reclassification.” Commissioner Hall responded “Right we did.”



Chair Lucas continued "I just would feel better if the public would have the opportunity to speak again especially the owners of the property that are affected by it. We may not have anybody to show up for a public hearing but at least they would have the opportunity to speak."

Commissioner Hall stated "I think we will and I think it will be misleading to think that we are going to do anything different than the reclassification." Chair Lucas responded "Well we were told there would be a possibility of a lawsuit. That is what the contract called for. However we were not told any amounts. It was very ambiguous to that, what the lawsuit would involve due to water sales, what has been invested to this point, no numbers just a threat of a lawsuit."

Commissioner Carter asked "Are you talking about a lawsuit on the reclassification?" Chair Lucas responded "No, if there was a breach of contract." Commissioner Carter continued "You are getting into something else; we are just talking about the reclassification." Chair Lucas responded "No, well it has been talked about, that the contract was approved."

Commissioner Carter moved, seconded by Commissioner Hall to approve the reclassification of the Dan River Watershed area from a WS-II to a WS-IV.

Chair Lucas stated "I would just like to say that I think this is somewhat of a travesty that we don't allow the public the opportunity to speak in a public hearing concerning a matter of this importance."

Commissioner Hamlet stated "I wish we could stop it but I don't think it is going to happen. We have been fighting this thing for eight years."

Upon a vote of the motion, the motion carried by a vote of four to three with Commissioners Hamlett, Lucas and Travis voting no.

#### PROPOSALS FOR TEMPORARY LANDFILL GAS MONITORING SERVICES

Mr. Howard stated "Back in early December we brought some proposals to you on gas monitoring at the landfill. We were asked to go back and talk with the folks at DENR and see what other options we had. They instructed us that we could do some temporary monitoring which is with less wells and less expensive than installing those other wells. What you have is three proposals to do that. The lowest being Smith/Gardner Engineers for \$5,800. These wells can be converted to permanent wells if these reading came back high enough to have to do full time monitoring. Just to make the Board aware when we did our water sampling back in late December we got some information back in January where they took some samples from the wet wells and then the gas vents. We sent those into DENR just to see if they thought we need to do this and I have not heard back yet to see if we wanted to continue with this process. If the Board would like to wait until the next meeting we will have time to look at this again until we hear back from DENR we may not have to do this at all. The water wells came back with a high reading but that was expected because they are right over the landfill but all the exterior gas vents came back as insignificant readings so what we are hoping is by taking those readings they may not have us do anything at all. I had hoped to have heard word back before this meeting but I didn't."

Chair Lucas asked "So what you are saying Kevin is with those readings it is a possibility that we may not have to do this." Mr. Howard responded "It is possible. Probably not likely but is a possibility."

Commissioner Travis asked "I was going to ask Kevin if this is something that we need to do or what because this is the second time it has been brought up?" Chair Lucas responded "He is waiting on a phone call." Mr. Howard responded "I am waiting to hear back from DENR about the sampling we took which was taken off the gas vents which was actually taken from the monitoring wells. They may or may not agree with the findings. Again the reason we are having to do this is because as part of the closing of the landfill, we were not the only ones in the state most of the ones that closed about that time were not doing monitoring and about a year and a half ago the decision that everybody needed to do some type of monitoring on these landfills was made."

Chair Lucas asked "There is a theory that the State discovered that these closed landfills, it was an oversight. We have been inspected year after year after year after year for 20 years and this has not been an issue and then all of a sudden there is an opportunity to raise some revenue so that is probably a basis point for this as well. Anyway you are waiting on a phone call back from DENR and the Board needs to decide whether we want to take action on this tonight or wait on the phone call from DENR?"

Commissioner Williamson moved, seconded by Commissioner Hamlett to table this issue until the next meeting on March 4, 2013 or until word is heard from DENR. The motion carried unanimously.

#### DETENTION CENTER UPDATES AND CHANGE ORDER

Mr. Howard stated "Mr. Brennan obviously is not here. What you have at your seats is a written interim report. One of the reasons they are not here tonight is they have meetings scheduled for tomorrow and Wednesday with the contractors they have not been able to meet with yet. They are scheduled to go through the delays. What you have is an email from the architect on the project, John Miller, which has outlined some of the deficiencies they have covered and solutions to those." Chair Lucas asked "Is that what is laying in front of us tonight?" Mr. Howard responded "Yes ma'am. I got it today." Chair Lucas continued "So the email he is referencing is in this stack of papers that we have in front of us."

Mr. Howard continued "There is a bullet point on the back that kind of outlines some of the scheduling and delays. What they are trying to do right now is to tie all those delays to the contractors, assess which contractor delayed who and then come up with a schedule. What Mr. Brennan said is he wanted to be able to answer all of your questions when he came and he did not feel like he could answer everything fully if he came tonight so he wanted to wait until the next meeting to do that."

Commissioner Carter asked "Since Mr. Doyne is no longer with firm who is the project manager of the detention center and where is he tonight?" Mr. Howard responded "Dennis Foster." Commissioner Carter continued "Where is he at tonight?" Mr. Howard responded "He is not

here. Mr. Brennan wanted to do this himself.” Commissioner Carter asked “Well where is Mr. Brennan at tonight?” Mr. Howard responded “He did not come.” Commissioner Carter continued “What is the explanation on why he did not come?” Mr. Howard responded “That is what I am trying to explain. They did not finish meeting with the contractors like they had hoped.” Commissioner Carter stated “Someone should have been here tonight.”

Chair Lucas asked “What is John Miller’s position?” Mr. Howard responded “He is an architect.” Chair Lucas continued “With Brennan?” Mr. Howard responded “Yes. He is the architect for this particular project.”

Commissioner Hamlett stated “I think we need to express the urgency on this thing. We need to get it opened. If we need to sue someone we need to get started. They need to be at the next meeting regardless. Are you holding any money back?” Mr. Howard responded “We are doing that.”

Chair Lucas asked “Would the Board be receptive to a special meeting to address this issue and maybe prior to that special meeting, I don’t know how many have had the opportunity to go down and actually look at the new facility but actually go down there and let them explain to us what is left to be done and what has been completed so that we will have a better understanding of where we stand with the project?”

Commissioner Travis asked “What is the date they have given you that it will be finished?” Mr. Howard responded “I don’t have a finish date yet. That is what they are trying to get laid out. I don’t have one yet.” Chair Lucas stated “It was supposed to be January 1.” Commissioner Travis stated “We need to have him here.” Chair Lucas responded “That is what I was saying. He can explain to us what has not been done...” Commissioner Travis continued “He does not need to explain to us what not has been done he needs to explain to us why it has not been done. That is what he needs to do. We need to get this jail open. It is supposed to already be open.” Mr. Howard responded “Given the general delays from weather and even taking in consideration the soil issues we had in the beginning mid-January should have been the latest to have it open.” Commissioner Travis stated “But February is about over now.” Chair Lucas stated “And we don’t know half way where we are. I have not had time to read this but will this give us some better idea?” Mr. Howard responded “It just tells you some of the major things they have been dealing with and the resolutions for those items. What he is going to give you is a full narrative explaining everything as far as what they are working on and why they have not finished it yet. So this is not even close to the final report that will be given on this.”

Commissioner Hamlett asked “From the attorney’s standpoint what can we do about this?” Mr. Ferrell responded “I think you do have options and I would like to talk about those legal options with you in closed session to preserve attorney/client privileges and I believe we plan to do that this evening. The reality is, in my view, these delays are continuing and it is a significant problem and it needs to be addressed.”

Chair Lucas asked “On what grounds would we be discussing it in closed session?” Mr. Ferrell responded “My legal recommendation to you about how to proceed but to the extent that you want to know the long and short of it is construction litigation is a complex field. It is generally

handled by lawyers who do nothing but construction litigation and given where you are in the project the long and short of it is my recommendation is going to be to get some proposals from construction litigation lawyers to get involved now and to start looking at what needs to be done, look at the bond issues, look at the delay issues so my recommendation is going to be that you move forward. We can talk about my particular legal advice about why that is but that is the long and short of my advice.”

Commissioner Hall stated “I am not quite sure I understand this handout, the attachment that we got.” Chair Lucas responded “I have not focused on it. I have not read it.” Commissioner Hall continued “I just looked at the numbers and we have three pages and one of the pages starts with the number 16 and the first page has a 1 through 8.” Mr. Howard responded “The first page is a summary and the rest of the pages that are attached are the note section of the project schedule. This is a schedule on getting things done.” Commissioner Hall stated “I know that we will not have time to read through all of this so what I want to be clear on then is that all of these are problems?” Mr. Howard responded “Not necessarily. What this is they have a project schedule and this is where they go in and make notes on different things. Some notes are good and some of them are bad. What they are working on is a narrative to have a breakdown on where everything is on the project.”

Chair Lucas asked “Are any of the other Board members receptive to a special meeting to address this issue?” Commissioner Hamlett responded “I think we need to hear what the attorney has to say in closed session. I don’t think they want to talk. That is the way I look at it so we need to go to phase two in my book. This is February and March will be here in eight days and it is going to be another 30 to 45 days before they get through.” Chair Lucas continued “Do we have money in the project to hire a construction attorney?” Mr. Howard responded “That is possible I would have to look at the project to see where we are. It is also a possibility that we could recoup some of those costs during the litigation.”

Commissioner Hamlett stated “I think we need to go to closed session and then go from there on what our options are.” Chair Lucas responded “So there is no action to be taken at this point. Is everybody in agreement with that?” All agreed. Chair Lucas stated “We will discuss this in closed session and go from there.”

#### DISCUSSION OF RESOLUTION ESTABLISHING THE CASWELL COUNTY REGIONAL ECONOMIC DEVELOPMENT COMMISSION

Mr. Howard stated “At the last joint meeting we discussed with the Town of Milton and the Town of Yanceyville the possibility of forming a Regional Economic Development Commission. This is a basic resolution establishing that. What it does not do is establish membership or funding. That is left up to negotiations between the three boards. This is a resolution for you to look at and I have also sent this to Mayor Brandon and to Haynes Brigman the Town Manager for Yanceyville for their review.”

Chair Lucas asked “Any questions on this issue for the County Manager?”

Commissioner Hall stated "I don't have any questions but I think in terms of the general format it looks pretty good so I would suggest that our Board, the spaces that he left blank, let's get a general consensus on what we want to go in those blanks so that the other boards can do the same so that when we get together we can finalize it."

Chair Lucas asked "Are you suggesting that we fill in the blanks now?" Commissioner Hall responded "Yes with what this Board would be comfortable with because the other boards will have to do the same thing. Like Item 3. The commission shall have a total of \_\_\_\_ members. [minimum of three and a maximum of nine] I would suggest that we do 9. We need to talk about it so if we need to change we can all be on one accord when we do meet. Item 4 could get portentous." Chair Lucas asked "How so?" Commissioner Hall continued "The membership of the commission shall be appointed as follows. I mean personally I would say do 9 and do 3 from each municipality but I don't know how everybody else is feeling. That is what I mean by portentous." Commissioner Jefferies responded "It would be fair to do that if we had 9."

Commissioner Hamlett asked "When do we meet with them again, March?" Commissioner Hall responded "Yes." Mr. Howard responded "March 14<sup>th</sup>."

Chair Lucas asked "Was it discussed early on and I may have missed it that there would be a financial contribution from each entity?" Commissioner Hall responded "No this is a draft. That is why I suggested that we fill in the blanks. My thinking when I brought it before the boards was there would be no finance involved at this point. So if this is the draft that we asked staff to bring to us then we can just put zero in there."

Chair Lucas stated "Let's start back with number 3 if that is the consensus of the Board to move forward with filling in the blanks. 'The Commission shall have a total of \_\_\_\_ Members.' We have a recommendation of 9?" Commissioner Jefferies responded "That is fine." Chair Lucas continued "The membership of the Commission shall be appointed as follows: Caswell County Board of Commissioners shall appoint \_\_\_\_ members," Commissioner Travis responded "Three." Chair Lucas stated "Item 5 'Members shall serve for terms of \_\_\_\_ years.'" Commissioner Hamlett responded "Three years." Chair Lucas asked "Is that what is typical for an EDC, I have no way of knowing, can anybody advise me?" Mr. Howard responded "Probably when you initiate it each one would have three members: one would have a 1 year term, one a 2 year term and one a 3 year term so that you are rotating one part of the board out without the whole board changing all at one time." Commissioner Hall stated "Keep in mind that we are talking about 9 members, we are not talking about commissioners specifically." Commissioner Travis stated "We can appoint 3." Commissioner Hall responded "Right and they can be commissioners or 1 or 2 but we have to decide on that." Chair Lucas stated "So the answer for Item 5 is 3 years. Item 7 'The formula for the financial support of the Commission shall be as follows: Caswell County shall contribute \_\_\_\_ percent of the annual operating budget to the Commission,'" Commissioner Hall responded "I would either say zero or suggest that we take it out especially since we are not talking about any money." Mr. Ferrell stated "The statute requires that you address how it is to be allocated. It doesn't say that you have to allocate anything but to the extent that the memberships is 3-3-3 maybe you do it on a 33 1/3% basis but the lowest number you can contribute could be 0." Chair Lucas stated "So the answer is Zero. Item 8 'The initial annual operating budget of the Commission shall be \$\_\_\_\_.' How do we

know the answer to that?" Commissioner Williamson responded "Zero." Chair Lucas continued "It's annual operating budget?" Commissioner Hall responded "We are not putting in any money so it would be zero." Mr. Ferrell stated "They can only have money that you give them unless they do some significant fundraising." Chair Lucas continued "So the answer is zero. That answers all the blanks on the resolution."

Commissioner Hall asked "I have a question about number 12 for our counsel. 'The initial organization meeting of the Commission membership shall occur no less than sixty days' so that means once all the governments approve this we have to wait 60 days?" Mr. Ferrell responded "No, I am sorry, you are right it should say 'no more than 60 days'. That means that you should get moving within 60 days." Commissioner Hall continued "So number 12 should say more than. I am good with that."

Chair Lucas stated "Okay we have all the blanks filled in there. Any other discussions on Item 12?"

#### APPROVAL OF APPLICATION FOR NC BUILDING RESTORATION AND REUSE GRANTS PROGRAM

Mr. Howard stated "This is just a resolution giving us the authority to apply for the Rural Center Building Restoration and Reuse grant."

Chair Lucas asked "And this is in reference to?" Mr. Howard responded "Project Catalyst." Chair Lucas continued "I had questions about it because of the language in it. I think it is just a misprint, it says the Town of Clayton Town Council." Mr. Howard responded "That is a misprint; it should say the County of Caswell Board of Commissioners."

Commissioner Hall moved, seconded by Commissioner Jefferies to approve the resolution with the correction as mentioned by the Chair.

Commissioner Hamlett asked "It says we are going to give 5% is that correct?" Mr. Howard responded "Yes sir, they require a 5% local match to it."

Chair Lucas asked "I will ask a question because my name is on here as Chair, is that normal procedure to do that, to list the Chair as the one to execute?" Mr. Howard responded "Yes ma'am." Chair Lucas continued "I just wanted to make sure that this was within my realm of responsibilities." Mr. Howard responded "Yes ma'am."

Upon a vote of the motion, the motion carried unanimously.

#### SENIOR CENTER ADVISORY BOARD'S REQUEST FOR COMMISSIONER REPRESENTATION

Mr. Howard stated "I have an email for you, what they have decided is if no one wanted to serve they would just start inviting you to some of their functions and to some of their events so that you would know what is going on and so you will know what is happening."

## APPROVAL OF VEHICLE USE POLICY REVISION

Mr. Howard stated “We talked about the section on the driver’s licenses where we have some folks that live in Virginia and we did not catch the change in the language requirements for insurance requirements so this is just saying for the state the vehicle is registered in. For Virginia they have to have the minimum requirements for the state of Virginia and if the vehicle is registered in North Carolina they have to follow the minimum requirements here.”

Commissioner Hall asked “I want to go back to counsel on this one. Do we know what the Virginia statutory requirements are because they could be a whole lot less than North Carolina?” Commissioner Jefferies responded “It is, 25 is all you have to have.” Commissioner Hall continued “So what do we do?” Mr. Ferrell responded “This goes back to the same discussion you had about potentially requiring greater limits than what is required by law in North Carolina. Part of that discussion was well if you require an employee to have more than what they have there is a cost issue associated with that and it will need to be addressed. Some employees have Virginia limits that are less than North Carolina so you can require them to come up to the North Carolina limits or allow them to maintain the limits that exist by statutes. It is essentially the same discussion we had and I believe it was Mr. Hamlett that was concerned about the limits before.”

Commissioner Hamlett asked “At the bottom you have ‘Employee shall notify the Human Resources Coordinator if his or her insurance coverage lapses or is cancelled for any reason.’ What is going to happen if they have a wreck and they don’t have insurance?” Mr. Howard responded “That would be a termination or at least disciplinary action.” Mr. Ferrell responded “The County does have insurance for the county employees that are driving County cars. It is just their individual policy is primary before the County policy kicks in. In the case of non-insurance there would be coverage from the County’s insurance.” Commissioner Hamlett continued “But you would take more action?” Mr. Howard responded “Yes.”

Chair Lucas asked “So what you are saying is the individual’s insurance is the primary coverage, are they automatically covered by our insurance policy? Are they covered at all?” Mr. Howard responded “Yes ma’am. Ours would be the secondary policy. If their limits do not meet whatever happened or was above that amount then our insurance would pick up mainly to cover us as far as the liability itself.” Mr. Ferrell added “And some of the employees may not have a car I mean they may have a driver’s license but they may not have their own car and they will certainly be covered by our policy.”

Commissioner Hamlett asked “What about if they rent a car?” Mr. Ferrell responded “When you rent a car you are offered renters insurance. I don’t believe the County rents cars.” Commissioner Hamlett continued “You are supposed to have a car to rent a car.”

Commissioner Travis asked “If we have an employee driving their own vehicle and we are paying them mileage and they have a wreck we don’t have to pick theirs up do we? Is that what you are saying?” Mr. Howard responded “Correct. Their insurance will be the primary. What will happen is if the accident’s expenses or costs are above and beyond what their insurance will cover then the County’s insurance will pick up the difference.” Commissioner Travis continued

“I don’t agree with that.” Commissioner Williamson responded “That is with any business.” Mr. Howard added “The only option is for the County to provide them a vehicle any time they have to do something for the County.”

Chair Lucas stated “I was sitting here looking at this article that was in the County Lines publication and it is about understanding symbols for automobile coverage. It lists all the different symbols on our policy that we have and what they denote. Symbol 9 is non-owned autos. Then it has hired autos like taxis. Anyway the symbols and I have talked with Kevin about this and we do have that but this says to reduce the risk for non-owned automobiles typically the coverage that is typically first in line for payment is the owner’s insurance policy written on the automobile owned by the employee. Then the non-owned coverage applies on the excess basis it is for this reason best practices dictates a county risk management policy that states anyone using their own vehicle during their job is required to purchase a specific minimum level of automobile liability insurance. This should be reviewed for compliance along with the procurement of a motor vehicle report providing past driving history on a regular basis. I don’t know if we set that minimum or...” Mr. Ferrell responded “That is what you are doing. That is what this is about, setting that limit.” Chair Lucas continued “Would you want to change the Virginia minimums to what the North Carolina minimums are but you can’t if that is the minimums for Virginia.” Commissioner Hamlett responded “You can’t do that. You can go up but they don’t have a 30. They have a 25 or 50.” Mr. Ferrell stated “I read that article as well. Now this is coming from your insurance carriers so keep in mind they are going to want you to get as much protection that you can before their policy kicks in so keep that in mind. I don’t think there were any specific minimums in that article. They suggested that you require more than the statutory limits.” Commissioner Hamlett responded “I did too.”

Commissioner Travis asked “Let’s say that person only has liability insurance on his vehicle but he is driving for the county. He has a wreck and total loss his car, does the county have to pay for his vehicle?” Mr. Howard responded “No sir. What we require is liability coverage. He needs to have the state minimums for liability coverage. We want to cover anything for somebody else. Even if he had the state minimum for collision or comprehensive and his car cost more we would not pay the difference in that either. We would just pay the liability portion of it.”

Chair Lucas asked “What are your recommendations?” Commissioner Travis responded “I don’t think it should be the county’s responsibility to pay for somebody’s mishap because I just don’t think it is right.” Commissioner Williamson stated “You have a choice of taking that chance or paying their insurance. If we make them raise their coverage they can possibly say you have to pay my insurance or provide me with a vehicle.”

Mr. Ferrell stated “The County can set the limits higher if it would like to but some of the employees may say okay I just choose not to drive my own car then for county business. I am not interested in having a higher insurance bill. I have to drive for county business so I will take one of your cars. I don’t know the number of cars the county would need to have.”

Commissioner Travis stated “If this thing is set up right when we hired somebody they would know our limits. When we hired someone we can tell them this is what you have to have if you



want to work for Caswell County.” Mr. Ferrell asked “That you are required to have a car?” Commissioner Travis responded “If the job requires you to have a car then yes. We can’t to do this for the people who are already here but we can require this for the new hires.”

Commissioner Hall stated “It would get messy if you tried to do that because you will discriminate against somebody because all of these jobs don’t require cars. You can’t force people just because you want to save on insurance to pick and choose and say going forward you have to have a car or going forward you have to have this. I would not want to go down that road.”

Chair Lucas asked “How do we resolve this issue?” Commissioner Hamlett responded “Just go with the state minimums like you already have in this.” Chair Lucas continued “So whatever the state requires for Virginia and North Carolina?” Mr. Ferrell responded “That would be my proposal.”

Commissioner Hall asked “The reason I raised the Virginia thing is because Virginia does not require one of these insurances and I don’t know which one it is. This is talking about liability right?” Mr. Howard responded “Yes sir. It does not specifically say liability but that is what it is.” Commissioner Travis stated “Everybody is required to carry liability.” Mr. Ferrell stated “The policy specifically speaks to liability limits as distinguished from collision limits or whatever options the people have. You don’t even have to have collision if you don’t want to. The liability is required.”

Commissioner Williamson moved, seconded by Commissioner Hall to approve the Vehicle Use Policy Revision. The motion carried by a vote of five to two with Commissioners Hamlett and Jefferies voting no.

## RECESS

The Board took a brief recess.

## COUNTY MANAGER’S REPORT AND UPDATES Board Planning Retreat

Mr. Howard stated “I have two dates listed for the Board Planning Retreat: February 28<sup>th</sup> and March 7<sup>th</sup>.”

Chair Lucas stated “I like February 28<sup>th</sup>.”

Commissioner Carter stated “March 7<sup>th</sup> suits me fine.”

Commissioner Hamlett stated “We need to meet before the next meeting so we can decide on Brian’s issue.”

Chair Lucas asked “Where will it be located?” Commissioner Travis responded “Here?” Chair Lucas continued “Well Kevin you can let us know if the destination changes. Kevin can you

give us an outline?” Mr. Howard responded “If there are certain items that you want to be discussed please get those to me and I will put together an agenda.”

Commissioner Williamson asked “What time will it begin?” Mr. Howard responded “3:00.”

#### Commissioner Flower/Card Policy

Mr. Howard stated “The current Commissioner Flower/Card Policy is in your packets. It has been discussed to amend this to allow memorials as well. When Commissioner Travis’ sister passed away there were some discussions about doing memorials so that is why this is on the agenda.”

Commissioner Travis stated “That is one of the best things we can do. Flowers are nice but they just don’t last. I think before we send flowers I think we need to check with the people. It is like I told Paula, when she was talking with me about it, I think sending it to Hospice is best because it could help someone else. We need to talk to the family first they may want a donation sent to a church or another organization.”

Chair Lucas asked “Do we have to amend the policy to reflect that or can it be a matter of procedure with Paula?” Mr. Howard responded “I think we need to amend it so that we can have a direction in it.”

Commissioner Travis stated “I think it would best for Paula to check with the family and do whatever the family wishes about something like that.” Commissioner Hamlett responded “That sounds good.”

Mr. Howard asked “Do you want to set an amount for the honorariums or memorials?” Chair Lucas responded “On a typical flower arrangement what would that be?” The Clerk responded “Between \$45 and \$55.” Chair Lucas continued “I would say \$50.00 on the donation amount.”

#### Rural Economic Development Institute

Mr. Howard stated “The next item is the Rural Economic Development Institute. I was accepted into this program. I am just letting the Board know that I will be out of the office to attend this for 3 days in March, 3 days in April and 3 days in May. To give you some information and education on rural economic development it obviously goes through leadership skills and other things involved in that process.”

#### ANNOUNCEMENTS AND UPCOMING EVENTS

- A. Joint Meeting with the Town of Yanceyville and the Town of Milton – Thursday, March 14, 2013 at 6:00 p.m. at the Thomas Day House.
- B. Heritage Day – Saturday, May 18<sup>th</sup> 9:00 a.m. until 2:00 p.m.
- C. County Employee Family Picnic on June 22, 2103 with a rain date of June 29, 2013.

CLOSED SESSION

Commissioner Hall moved, seconded by Commissioner Hamlett to discuss matters relating to economic development (NCGS 143-318.11(a)(4)), to consider the compensation, terms of appointment and performance of an individual public officer (NCGS 143-318.11(a)(6)) and to preserve the Attorney/Client privilege – Triumph, LLC v Alamance-Caswell LME, an Area Authority/Local Management Entity, Alamance County, and Caswell County, Alamance County v PBH d/b/a Cardinal Innovations, John P. Paisley, Jr., Jandy Andrews and National Digital Forensics, Inc., Alamance County File No. 12CvS1365 (NCGS 143-318.11(a)(3)). The motion carried unanimously.

REGULAR SESSION

Commissioner Travis moved, seconded by Commissioner Carter to resume regular session. The motion carried unanimously.

Commissioner Hamlett moved, seconded by Commissioner Williamson to authorize the County Attorney to get proposals for a construction litigation attorney. The motion carried by a vote of six to one with Chair Lucas voting no.

ADJOURNMENT

At 9:25 p.m. Commissioner Travis moved, seconded by Commissioner Hamlett to adjourn. The motion carried unanimously.

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Paula P. Seamster  
Clerk to the Board

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Cathy W. Lucas  
Chair

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